



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

HICKMAN PALERMO TRUONG & BECKER, LLP
1600 WILLOW STREET
SAN JOSE, CA 95125

COPY MAILED

SEP 02 2004

In re Application of
Lupoi, et al.
Application No. 10/753,655
Filed: January 7, 2004
Attorney Docket No. 600920012

OFFICE OF PETITIONS

DECISION GRANTING PETITION

This is a decision on petition filed May 4, 2004, requesting that the above-identified application retain the presently accorded a filing date of January 7, 2004, with pages 80, 82, 89, and 90 of the specification as part of the original disclosure.

On January 7, 2004, the above-identified application was filed. On April 20, 2004, the Office of Initial Patent Examination mailed a "Notice to File Missing Parts of Nonprovisional Application" (the "Notice"), stating that the application had been accorded a filing date of January 7, 2004, however, pages 80, 82, 89, and 90 of the specification appeared to have been omitted. The Notice allowed a non-extendable two-month period for reply beginning from the mailing date of the Notice.

In response, on May 4, 2004, applicants filed the instant petition along with a copy of the Office date-stamped postcard acknowledging receipt of 94 pages of the specification January 7, 2004, and a copy of the allegedly omitted pages.

Upon review of the record, pages 80, 82, 89, and 90 of the specification have not been located among the application papers. However, the evidence is convincing that the application papers deposited January 27, 2004, included pages 80, 82, 89, and 90 of the specification that were subsequently misplaced by the Office. Therefore, the application, including pages 80, 82, 89, and 90 of the specification, were complete on filing and entitled to the presently accorded filing date of January 7, 2004.

Accordingly, the petition is granted; the language in the Notice relative to the omitted figure is vacated, accordingly. The petition fee of \$130.00 will be refunded in due course.

The application file is being returned to the Office of Initial Patent Examination for further processing with the presently accorded filing date of January 7, 2004, using the 94 pages of specification filed on that date.

Any inquiries related to this decision should be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND											
1 Date of Request: <u>9/1/04</u>		2 Serial/Patent # <u>10/753,655</u>									
3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED	6 AMOUNT							
<input type="checkbox"/>	Filing			\$							
<input type="checkbox"/>	Amendment			\$							
<input type="checkbox"/>	Extension of Time			\$							
<input type="checkbox"/>	Notice of Appeal/Appeal			\$							
<input checked="" type="checkbox"/>	Petition	<u> </u>	<u>5/4/04</u>	\$ <u>130.00</u>							
<input type="checkbox"/>	Issue			\$							
<input type="checkbox"/>	Cert of Correction/Terminal Disc.			\$							
<input type="checkbox"/>	Maintenance			\$							
<input type="checkbox"/>	Assignment			\$							
<input type="checkbox"/>	Other			\$							
		7 TOTAL AMOUNT OF REFUND		\$ <u>130.00</u>							
10 REASON:		8 TO BE REFUNDED BY:									
		<input checked="" type="checkbox"/> Treasury Check									
		Credit Deposit A/C #:									
<input type="checkbox"/>	Overpayment	9 <table border="1" style="display: inline-table; border-collapse: collapse;"><tr><td style="width: 20px; text-align: center;">5</td><td style="width: 20px; text-align: center;">0</td><td style="width: 20px; text-align: center;">--</td><td style="width: 20px; text-align: center;">1</td><td style="width: 20px; text-align: center;">3</td><td style="width: 20px; text-align: center;">0</td><td style="width: 20px; text-align: center;">2</td></tr></table>			5	0	--	1	3	0	2
5	0				--	1	3	0	2		
<input type="checkbox"/>	Duplicate Payment										
<input checked="" type="checkbox"/>	No Fee Due (Explanation):										
<u>Office Error.</u>											
11 REFUND REQUESTED BY:											
TYPED/PRINTED NAME: <u>Lenya McFayklein</u>		TITLE: <u>Petitions Acty.</u>									
SIGNATURE: <u>Lenya A. McFayklein</u>		PHONE: <u>365-0576</u>									
OFFICE: <u>Petitions</u>											
***** THIS SPACE RESERVED FOR FINANCE USE ONLY: *****											
APPROVED: <u>Alicia Kilk</u>		DATE: <u>9/2/04</u>									

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B